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September 24, 2020

VIA CM/ECE

Honorable Gregory H. Woods
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 12C
New York, New York 10007

**Re: Velasquez v. Two Big Boys, Inc., d/b/a Posh Bar & Lounge, et al.
Case No. 1:19-cv-11488-GHW**

Dear Judge Woods:

Per Your Honor's Individual Rules of Practice in Civil Cases, R. 2(C)(ii), the parties are required to submit a Joint Letter requesting a Pre-Motion Conference in order to seek leave to file a motion or to resolve a discovery dispute. The parties' counsel, therefore, submit this Joint Letter for your consideration.

In accordance with the Scheduling Order issued in this civil case [D.E. 19], Plaintiff prepared a notice of Plaintiff's intention to conduct the deposition of Defendant, JOHN IOANNOU, and served said notice upon defendant's undersigned attorney, Paris Gyparakis, Esq. [See Exhibit "A", annexed hereto]. On August 21, 2020, Mr. Ioannou's counsel informed Plaintiff's counsel that his client was out of the country and that he has not been able to confirm his appearance at the scheduled deposition. Defendant's counsel requested that Plaintiff's counsel adjourn the deposition and offered to pay for the costs of same. Plaintiff's counsel did not consent to the adjournment and informed Defendant's counsel accordingly.

On the day of the deposition, Plaintiff's counsel waited, with a court reporter, for Mr. Ionnaou, and Mr. Gyparakis, to attend the deposition via Zoom. Neither the defendant nor his attorney attended the scheduled deposition. Thereafter, Plaintiff's counsel emailed Defendant's counsel to inquire as to why no one appeared for the deposition at the time scheduled. The Defendant's counsel advised by email that his client, at the time of the scheduled deposition, had no internet access and therefore unable to attend. Plaintiff's counsel responded that he was willing to reschedule for a time that day at which the deponent would be able to access the internet, but no available time was provided by the Defendant's counsel.

Thereafter, on September 21, Plaintiff's counsel again spoke with Defendant's counsel and they mutually agreed that the Defendant would be deposed on Wednesday, September 23 at 11 AM and that Defendant's responses to Plaintiff's discovery demands would be produced on September 22 by 5 PM. Plaintiff's counsel confirmed this by email. Defendant's counsel

Honorable Gregory H. Woods
September 24, 2020
Page 2

confirmed the agreed date and time for both the production of discovery by email. Despite the agreement, Defendant failed to produce the discovery. Plaintiff's counsel immediately notified Defendant's counsel by email of his failure to produce the discovery. Furthermore, once again, on September 23, at the agreed and noticed time, although Defendant's counsel appeared, Defendant failed to appear for the deposition and seems no longer to be cooperating with his counsel.

At this time, Plaintiff seeks leave of the Court to move to Compel Discovery and for Sanctions with regard to the failure to appear for the deposition and the Parties' counsel, therefore, jointly request a Pre-Motion conference to be scheduled by the Court in this case. [Copies of all of the above-referenced emails will be produced as exhibits in the event the Court grants Plaintiff's request to file the formal Motion to Compel Discovery and for the imposition of Sanctions.] As stated above, the parties have been conferring by email and by telephone regarding the deposition, without any resolution at this time. Plaintiff's counsel did advise Defendant's attorney that Plaintiff would be seeking leave to file a Motion to Compel due to the lack of cooperation from Defendant/deponent and his attorney. Communication has regularly been conducted between the parties' counsel by email and telephone conference. Nonetheless, discovery remains incomplete at this time.

Therefore, in order to resolve this matter, the parties hereby jointly request a Pre-Motion Telephone Conference to discuss, with the Court's assistance, the resolution to this discovery issue and/or for Plaintiff to seek leave of the Court to file Plaintiff's Motion to Compel and for Sanctions.

Thank you for your attention to this matter.

Respectfully submitted,

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